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**AMENDMENT TO AGREEMENT**  
**FOR CONSULTATION AND OTHER SERVICES**

This Amendment is entered into this January 3, 2006, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and Swinerton Management & Consulting, Inc. (hereafter referred to as "CONSULTANT").

**RECITALS**

WHEREAS, the parties amended the Agreement to allow CONSULTANT to provide one staff extension and additional professional project coordination, management, and master scheduling services for projects proposed for the improvement of the Midtown, North Main Street, and Abel Street including the library and parking structure on May 18, 2005; and

WHEREAS, the parties amended the Agreement to allow CONSULTANT to provide additional professional project coordination, management, and master scheduling services for the DDA's for the KB Development and the Senior Housing Project, and for Project 6079 Main Sewage Pump Station Improvements, library site remediation, and to continue with these services on improvement project for Abel Street on June 21, 2005; and

WHEREAS, the parties desire to amend the Agreement to allow CONSULTANT to continue to provide the professional project coordination, management, and scheduling services related to the following Midtown Projects: Land Acquisition and Site Preparation, Project 8154, North Main Street Development EIR Mitigations, Project 8169, and Main Sewage Pump Station, Project 6104.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. The first sentence in Subsection 1.1, entitled "Term of Services" is amended to read:

The term of this Agreement shall begin on the date first noted above and shall end on **February 15, 2006**.

2. Section 1, entitled "Services" is amended by adding Exhibits "A-3", which are attached hereto and incorporated by reference herein.
3. Section 2, entitled "Compensation" is amended to add Exhibit "B-3", which are attached hereto and incorporated by reference herein. Section 2 is further amended by adding the following to the end of the Section:

The compensation for the services set forth in Exhibits "A-3" is a "not to exceed" amount. The total maximum amount of compensation to be paid for tasks outlined in Exhibits "B-3" shall be **\$76,000**.

4. The Consultant agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated **February 17, 2004**, between **Swinerton Management & Consulting, Inc.** and the City of Milpitas. The Consultant shall provide the City with renewal certificates of the current policies upon the expiration of the current policy.
5. All other provisions of the Agreement shall remain in full force and effect.

This Amendment is executed as of the date written above.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT

\_\_\_\_\_  
City Engineer as to content

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
City Attorney as to Form

ATTESTED BY:

\_\_\_\_\_  
City Clerk

## **EXHIBIT A-3**

### **(SCOPE OF CONSULTANT'S DUTIES AND SERVICES)**

Consultant shall perform work on the following projects within the scope a budget shown herein:

#### **Task 1 - Land Acquisition and Site Preparation**

General management of the site preparation work, including managing the haz-mat abatement in both the buildings and the ground with consultant SCS and Contractors; rough grading the site with a soil management plan to maximize benefit to the City to either encapsulate contaminated soil or remove it, and provide rough grading and pads for buildings, with other consultants and contractors; implementation of site security, temporary construction facilities and other work related to preparing the site to eliminate unknowns and attract successful bids for the Garage and Library projects

These items relate to site preparation and will therefore be charged to project 8154

#### **Task 2 - N. Main Dev. EIR Mitigations**

General management of compliance with the mitigation monitoring plan and EIR mitigations as they relate to the City's projects directly and to other's projects indirectly. This work includes coordination of a Geologist and Anthropologist for excavation and grading work. This work also includes completion of the HABs documentation and historic mitigations working with Carey & Co. Preparation and review of the Health Center DDA is included in this task.

These items deal mainly with mitigation measures in the EIR and are therefore charged to project 8169

#### **Task 3 - Main Sewer Pump Station, Project 6104**

Project management services for design and construction of the Garage working with City staff as detailed elsewhere. Design Process Support to include development of detailed project budget, schedule and identification and procurement of consultant services. Consultant to assist in management, coordination and monitoring of design and engineering consultants, prepare meeting minutes, identify options and / or requirements for regulatory agency compliance and tracking the resolution of agency requirements. Other tasks to include development and maintaining master project schedules, assist in the review of plans and specifications, assist in coordination of City staff plan review comments, assist City staff in preparation of reports and presentation to Council, City Commissions and neighborhood groups, as required, and assist in the preparation of bid documents. During Bidding, consultant to develop contractor interest in bidding work, coordinate pre-bid walk-throughs, coordinate contract document printing and distribution, maintain plan holders list, assist in the preparation and distribution of RFI and plan addendums, assist in preparation of bid forms and alternates, assist in awarding of project and assist in the issuance of Notice of Intent and complete City standard construction contract with all attachments. Construction Administration to include set-up of project manual and information tracking system (ConstructWare), tracking and responding to RFIs, submittals and correspondence, administer pre-construction conference, coordinate weekly job-site meetings including preparation of agenda and meeting minutes, maintain photographic record of project, review contractor's request for change orders and preparation of approved change orders, assist in the monitoring of inspection services, review and processing of progress payment applications, manage processing of substitution requests, assist in claims analysis and dispute resolution, monitor contractor's submission of certified payroll, coordinate final inspection and development of correction list ("punch list"), prepare notice of completion and track the submission of record drawings, operations manuals, warranties and any spare parts.

Deliverables include monthly project status report in format required by City with details on project budget and schedule.

### **EXHIBIT B-3**

(Payment by CITY: Time and Manner of Payment)

Amendment #3-- Period from: December 2005 to February 2006.

1. Consultant shall bill on time and material basis using billing rates established in original Agreement. Staffing costs for Amendment #3 not-to-exceed \$76,000, including miscellaneous consultation and reimbursable expenses.